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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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Michael A. Bacon,

Plaintiff,

v.

Jacob Barker, et al.

Defendants.

MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

Case No. 2:21-cv-760 HCN DBP

Judge Howard C. Nielson, Jr.  
Chief Magistrate Judge Dustin B. Pead

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This matter is before the court on pro se Plaintiff Michael Bacon's Motion to Appoint Counsel. (ECF No. 22.) The court will deny the motion.

Although appointment of counsel is permissible in certain circumstances, a civil plaintiff has no statutory or constitutional right to the appointment of counsel. *See* 28 U.S.C. § 1915(e)(1). "The burden is on the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel." *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004). Courts consider "the merits of a [plaintiff's] claims, the nature and complexity of the factual and legal issues, and a [plaintiff's] ability to investigate the facts and present his claims." *Id.*

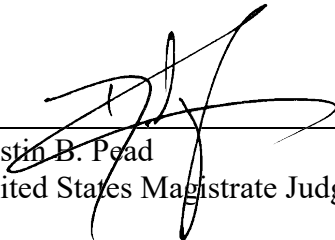
Here, Plaintiff claims Defendants violated his Constitutional rights during an arrest. Allegedly, "Defendants police reports do not match the evidence of what happened" and no probable cause existed to stop Plaintiff for a bank robbery. Compl. p. 3, ECF No. 4. Plaintiff asserts he needs counsel because he will be sentenced shortly and then have to undergo the process of being transferred to a federal prison. Plaintiff does not claim he lacks counsel in the criminal case where he faces sentencing. As such, the issues Plaintiff brings in his motion may be addressed in the other matter making appointment of counsel in this case unwarranted.

Moreover, the nature and complexity of the factual and legal issues presented here do not warrant the appointment of counsel at this time. If needed, the court will appoint counsel at a future date. Finally, the court is not persuaded that Plaintiff cannot present his claims.

ORDER

Accordingly, for the reasons discussed above, the court DENIES Plaintiff's motion to appoint counsel.

DATED this 12 April 2022.



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Dustin B. Pead  
United States Magistrate Judge